

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas
FILED

MAY 05 1998

Michael N. Milby, Clerk

AMERICAN DENTAL TECHNOLOGIES, INC. :
28411 Northwestern Highway :
Suite 1100 :
Southfield, MI 48034-5541 :

Plaintiff,

v.

KREATIV, INC.
1517 Industrial Way, S.W.
Albany, Oregon 97321-3377

Defendant.

Civil Action No.

C-98-181

COMPLAINT

Plaintiff, American Dental Technologies, Inc. ("ADT") for its complaint against defendant, Kreativ, Inc. ("Kreativ") alleges as follows:

THE PARTIES

1. Plaintiff ADT is a corporation organized and existing under the laws of the state of Michigan and having a place of business in Corpus Christi, Texas.

2. Upon information and belief, defendant Kreativ is a corporation of the state of Oregon having its principal place of business at 1517 Industrial Way, S.W., Albany, Oregon 97321-3377.

3. ADT is informed and believes, and thereon alleges, that defendant Kreativ has committed the acts alleged within this judicial district. These acts include, but are not limited to, the manufacture, use, sale, and promotion of certain equipment for

performing dental procedures on teeth and/or associated tooth structure, with the knowledge and intent that the equipment would be resold and used within this judicial district. This equipment includes, but is not necessarily limited to, dental equipment sold under the trade names "KV-1," "Mach 4.0," "Mach 4.1," "Mach 5.0," and "Mach 5.0 Plus."

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §1331 and §1338(a). Venue is proper in this judicial district under 28 U.S.C. §1391 and §1400(b).

FACTS IN SUPPORT OF ALL CLAIMS FOR RELIEF

5. On May 5, 1998, United States Letters Patent No. 5,746,596 ("the '596 patent"), entitled "Dental Treatment Method," was issued to Ben J. Gallant, Alan N. Gleeman and William S. Parker. Plaintiff ADT is and has been the owner of the entire right and title to said patent since the date of its issuance.

FIRST CLAIM FOR RELIEF (Infringement of the '596 Method Patent)

6. This is a claim for patent infringement under 35 U.S.C. §271 and §281.

7. ADT hereby repeats, realleges and incorporates by reference paragraphs 1 through 5 of this Complaint as though fully set forth herein.

8. ADT is informed and believes, and thereon alleges, that defendant Kreativ, through its agents, employees and servants, has induced others, and continues to induce others, to infringe the claims of the '596 patent, in violation of 35 U.S.C. §271(b). These acts were not and are not authorized by ADT.

9. Kreativ has received actual notice of the '596 patent because ADT has made the existence of the '596 patent known to Kreativ through court proceedings of a related case.

10. ADT is informed and believes, and thereon alleges, that defendant Kreativ has derived, received and will continue to derive and receive, gains, profits and advantages, in amounts not presently known by ADT with certainty, from their acts of infringement.

11. ADT is informed and believes, and thereon alleges, that such infringement has been and continues to be intentional, knowing, willful and deliberate, with full knowledge of ADT's rights.

12. Due to the acts of infringement by defendant Kreativ, ADT has suffered great and irreparable injury.

WHEREFORE, ADT prays for relief as follows:

A. that Kreativ be adjudged to have infringed United States Letters Patent No. 5,746,596.

B. that Kreativ be adjudged to have willfully and deliberately infringed United States Letters Patent No. 5,746,596;

C. that Kreativ, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of the Order, be preliminarily and permanently restrained from infringing United States Letters Patent No. 5,746,596;

D. that Kreativ account for damages to ADT for its infringement of United States Letters Patent No. 5,746,596;

E. that a judgment be entered against Kreativ awarding ADT all damages to which it is entitled under 35 U.S.C. §284, including increased damages for defendant's willful infringement;

F. that the damages in this judgment be trebled for Kreativ's willful and deliberate infringement of United States Letters Patent No. 5,746,596;

G. that an assessment be awarded to ADT of interest on the damages so computed;

H. that the Court award ADT its reasonable attorneys fees and costs pursuant to 35 U.S.C. §285; and

I. that ADT receive such other and further relief as the Court may deem just and proper.

PLAINTIFF HEREBY DEMANDS A JURY TRIAL.

Respectfully submitted this 5th day of May, 1998.

SYNNESTVEDT & LECHNER

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May 5, 1998
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